MR. ROOSEVELT CHOSEN PRESIDENT

Mayor Strong Abused by Outgoing Officials.

ACCUSED OF BAD FAITH

NEW YORK, May 6.-Theodore Roose velt and Col. Fred Grant were sworn in as police commissioners this morning.

When the new board met later in the day Commissioner Roosevelt was chosen president, Commissioner Andrews was elected treasurer, Commissioner Parker was appointed chairman of the committee on elections and of the committee on pen-sions and Commissioner Grant was appointed chairman of the committee on repairs and supplies and also chairman of the committee on rules and discipline.

Mr. Murray Makes Charges. Before relinquishing his office Commissioner Murray sent a letter to Mayor Strong refusing to comply with the request

In concluding the letter Mr. Murray said: "The perty of which I am a member, and which, prior to your election as mayor, you were identified with, through its representatives in the legislature, with mistaken confidence in your discretion, fairness and republicanism, conferred upon you an arbitrary power of removal. This power should not be used with vindictiveness, nor exercised for the purpose of building up factional republicanism, or causing republican disorganization or dissension.

"The spirit of this act you have violated. The exercise of the power by you, however narrow, capricious or unjust, I cannot prevent. If you think you can afford to employ this power, do so. I can afford to be made its innocent victim."

Commissioner Kerwin today gave out a "The party of which I am a member, and

made its innocent victim."

Commissioner Kerwin today gave out a second letter to the mayor, in which he went more into details in regard to the alleged violation of ante-election pledges by Mr. Strong than he did in his letter of last Saturday. Both Mr. Kerwin and Mr. Murray are Platt republicans.

Called Treacherons by Kerwin. In his later letter Mr. Kerwin says: "The republican organization of this county, through accredited representatives, called upon you before election, and you voluntarily gave pledges of the mest binding character that in the event of your elec-

character that in the event of your elec-tion you would rot recognize any faction, but would do all you could to harmonize and tuild up the republican party.

"The record proves that you were false to every promise you made, and in the face of overwhelming evidence you have not dared to deny your wanton treachery.

"Here are some things that the history of your administration up to the present time rhows:

of your administration up to the present time rhows:

"The appointment of a sufficient number of democrats to office to warrant the fu-ture solidity and success of that party, and to render very improbable future victory by the republican party, (It is a note-worthy fact that, after securing all that was possible from a republican mayor, the leader of the Grace democrats resigned his leadership, thus giving his followers the leadership, thus giving his followers the opportunity of assimilating with Tam-

opportunity of assimilating with fair-many.)

"The appointment of non-residents to im-portant places in the government of New York city.

"The recognition of a faction in the re-publican organization in this city.

"Tke utter ignoring of the regular repub-lican organization by the municipal admin-istration.

istration.

"The unblushing refusal of a mayor elected by republicans to carry out pledges of honor made by him previous to election.

"The attempt to discredit, insult and disrupt the republican organization in this county through the encouragement of a faction minority.

county through the encouragement of a faction minority.

"The patient people of this city, my dear sir, will not forget that you remained silent in the face of charges of the most damaging character, directly crediting you with heing untruthful in your statements and false to the pledges subscribed by you. They will not soon forget the puerile explanation you made when you startled the community with the false declaration that the city's finances had been tampered with. Least of all will any self-respecting citizen forget your conduct in going outside of this city for persons to conduct the affairs of the municipality. In doing this, you gra-In doing this, you gratuitously insulted every man who cast a vote at the last election."

FIGHTING IN NICARAGUA.

Opponents of Zelaya Unite to Make

NEW YORK, May 6.-A special cable-gram to the Evening World from Tegucigalpa, Honduras, today, says: "Fighting has begun in Granada, Nicaragua. Disorder is reported from Leon also. Word comes from there that the followers of Ortis Zerulia and Machereo have united to make war on Zelaya. The Honduran troops concentrated at Cape Gracias will remain outbreak on the Mosquito reservation may extend here. The troops at Almapa will be distributed along the coast. Gen. Bonilla will take 4,000 men and go to President Zelaya's aid, if requested.

The evacuation of Corinto and the sailing of the British ships is announced.

BIG NORTHWESTERN FAILURE.

N. P. Clark & Co. of St. Cloud and

Minnenpolis Assign. MINNEAPOLIS, Minn., May 6.—The lumber and banking firm of N. P. Clark & Co. of St. Cloud, Minn., and Minneapolis, filed an assignment in the district court at St. Cloud late Saturday evening to Lucas Kells, a Sauk Center banker. The fact of the assignment was kept secret. The assignment has been contemplated for a long time, and during the past two months N. P. Clark, who is to all business purposes N. P. Clark & Co., as Fred H. Clark's in terests are nominal, has been busy securing the depositors in his bank and all personal creditors. He is reported to have said that creditors. He is reported to have said that they should not suffer on account of any mismanagement by the junior partner.

N. P. Clark did not make a personal statement. Fred H. Clark, the local member of the firm, says the liabilities will fall within half a million.

within half a million.

A rumor that the failure was due to "flyers" in wheat and corn F. H. Clark denied

FIRE AT EAST BUFFALO.

The Loss Estimated at a Quarter of a

Million. BUFFALO, N. Y., May 6.-Fire early today destroyed M. Strauss & Sons' tannery, postal station, A. Groben's coal yard, barns, several freight cars, two dwellings. a number of horses and a large amount of stock in East Buffalo. The loss is estimated at a quarter of a million, with \$125,-

000 insurance.

The fire started in the barn in the rear of 780 William street and was well under way when first discovered. Before the fire apparatus arrived the fire had communicated to the tannery next door, as well as to the dwellings in front. The in-mates escaped in their night robes.

CLOUD BURST IN KANSAS.

Houses, Horses and Cattle Swept Away by the Flood.

HERRINGTON, Kan., May 6.-Herrington was visited by a cloud burst last night. The town and surrounding country were flooded. Lime creek, which has been dry for a year, was converted into a raging torrent, and houses, horses, cattle and hogs were swept down stream. John Williams house was carried away and the family narrowly escaped drowning. The house of Samuel McManus was also carried away and wrecked by striking a bridge. McManus escaped, but Mrs. McManus was drowned. Her body was found lodged in a tree in the park south of town today.

FOUND DEAD IN THE GUTTER.

Murder of a Railroad Man at Minne apolis. MINNEAPOLIS, Minn., May 6.-Early this morning two young men found in the gutter the dead body of H W. Thomas, superintendent of the "Soo" road. There was a bullet hole in his head. Thomas last night called on Mrs. F. L. Williams, a divorcee, at the home of her father, R. L. divorcee, at the home of her father, R. L. Berglund. He left and soon after a shot was fired. The murdered man's valuables were found on his person, thus precluding the idea of robbery. Mrs. Williams is a young woman who ran away to Hudson, Wis., to marry Williams. He turned out a worthless character and Mrs. Williams obtained a divorce.

Williams was arrested early this morning and later confessed.

Killed After a Hard Fight. SECAUCUS, N. J., May 6.-John H. En gelbrecht, a saloon keeper and owner of the Sunny Side, a small hotel on the Paterson road, was found murdered in his saloon this morning. Blood was spattered all over the room in which the corpse lay, showing that Engelbrecht had made a desperate struggle for life. Robbery was evidently the motive of the murder. Engelbrecht was thirty-five years of age. There were no guests in the hotel last night. The place at night is very lonely. Engelbrecht' father died a short while ago and left con siderable money.

Murder of a Hotel Clerk.

PITTSBURG, Pa., May 6.-Isaac Jope, night clerk at the First Avenue Hotel, was found murdered in the basement of the hothe head with an iron bar, and though still alive when found, he died soon after. He carried the money of the hotel in his pockets, and this was no doubt the object of the crime, as he was robbed and left dying on the floor. Five arrests have been made and others will follow, though there is little evidence upon which to work.

QUIET AT POCAHONTAS.

No Miners Working in the Mines To-

POCAHONTAS. Va., May 6.-There are no miners working today in the mines here, and, while Monday is regarded as an off day, it is believed the union men have won the field. The Hungarians have refused to work, and only a very few men went up to report for duty. They are what are known as day men, who lay tracks and work at the machines. The town was quiet last night and good order prevails, the miners ing on one of their speakers, Mr. Warbur-ton, who was knocked down by Mr. Hall on the depot platform and seriously hurt. ton, who was knocked down by Mr. Hall on the depot platform and seriously hurt. The sympathies of this section are with the miners. The operators, it is believed, will suspend any attempt to run the mines. Last night about 10 o'clock two policemen, Baldwin and Mike Rupert, went to the home of Joe Farkars, and calling him out, asked him if he intended to work. He said he would not work unless others worked. He was then told he must work, and he responded that he would not, whereupon he was struck. At this seven men in sympathy with the police rushed in, and Farkars was arrested and is now in jall. Another man, a negro, was struck at the Browning mines, and there are warrants out for some of the miners of West Virginia who are here for interfering and keeping other men from working. Trouble is feared. The miners think the police want trouble and are holding back. If arrests continue there is no telling what will come, as the miners are indignant.

SAVED BY A LEGAL KNOT.

It Must Be Untied Before Buchanan is Executed.

SING SING. N. Y., May 6.-Warden Sage said today that, acting on the advice of Attorney General Hancock, he had abandoned the ioea of executing Dr. Buchanan on Wednesday. The second respite by Gov. Morton will expire at that time, but owing to the legal muddle the execution, according to the opinion of the attorney general, must be delayed till the courts again decide the questions raised by Buchanan's lawyers.

MASSEY WITHDRAWS.

Another Break in the Delaware Sena

DOVER, Del., May 6.-A sensation was caused today by the announcement that a letter had been received, addressed to the senate, from George V. Massey, declining to allow further use of his name in the bal-lotting for a United States Senator. For more than a week Massey has been polling six votes on each ballot, but even his six votes cannot elect a Senator, unless there is a break from either Higgins or Addicks which is doubtful. At the outset of the contest Massey had but three votes, but later he drew three more from the Higgins ranks, and it is more than likely that these men will go back to Higgins and Pennewill on tomorrow's ballot.

The vote today was: Higgins, 6; Addicks, 6; Massey, 6; Pennewill, 1; Ridgely, 9; Tun-

WILMINGTON, Del., May 6.—It is now believed by many that Dr. Hiram R. Burton's chances for the United States senatorship are brighter than those of any of the other aspirants. There was a delegation of countries of the senature of the sen other aspirants. There was a delegation of republican leaders from Sussex county at Dover today, and they will make strong bid for the senatorship from that county.

SECRETARY MENTYRE RESIGNS.

The Well-Known Turfman Retires From the St. Asaph Track.

While the card presented by the Virginia Jockey Club at St. Asaph today was a light one, it contained enough fairly good orses to make the day's sport interesting. The track has dried out completely, and is n excellent condition. Sixteen books were on. Weather warm and threatening. The attendance was good.

Mr. Ashby, clerk of scales, is acting secretary in place of H. D. McIntyre, resigned.

AN OLD CASE.

Supreme Court's Decision in the

White-Joyce Suit. Justice Shiras of the United States Supreme Court today handed down the opinon of that court in the local case of White et al. against Joyce et al., which has been long enough before the courts of the District to be almost entitled to the name of the Washington Jarndyce case. The Supreme Court reverses the decree of the Supreme Court of the District of Columbia, and remands the case with instructions, thus in part sustaining the appeal of Mary White, Francis P. White, Mary S. White and other appellants.

Morgan Taken to Prison.

Special Dispatch to The Evening Star. RICHMOND, Va., May 6.-Charles Morgan, alias Morganfield, the Aquia creek train robber, was received at the penitentiary this morning to serve eighteen years. The deputy sheriff of Stafford county and a son of the sheriff brought him here. Morgan is still unable to walk, one of his limbs having been broken when he jumped off the train at Cincinnati. He will be placed in the hospital.

Mr. McCauley's Will.

The will of the late Theodore F. McCauley, who died at Rome, Italy, on the 8th of last month, dated January 31, 1895, was filed today. To the widow premises 218 B street southeast, together with the household effects, are left during widowhood. At her death or upon her marriage the same is to pass to Virginia, Ida and Lewis Mc-Cauley, children of the deceased, equally. The residue of the estate is divided among the eight children of the deceased, and his brother, Henry C. McCauley, is appointed executor.

Judgment Affirmed.

executor.

The Court of Appeals this afternoon, in the case of Geo. W. Moss, executor of the estate of the late James Littleton against Charles B. Littleton, handed down an opin-ion affirming the judgment of the court below.

ARGUING IT AGAIN

Income Tax Cases Before the Supreme Court.

ON MOTION FOR A REHEARING

The Court Decides to Reopen the Whole Matter.

JUSTICE JACKSON PRESENT

got into the very small space allotted to visitors in the Supreme Court room this morning. They began going there early, an hour and a half before noon and long be fore that hour, when the court was scheduled to meet, every available seat was taken, and the bar was filled to overflowing. A large proportion of the crowd wa composed of ladies. There was a large sprinkling of newspaper men, who, thanks to the lack of sufficient room, had no accommodations for their work. After the seats were all taken, files of folks found standing room.

The cause of all this unusual crowd was the fact that today for the first time in many months the Supreme Court was to sit with a full bench and to begin hearing arguments on the question of reopening the income tax cases, which were partly decided a few weeks ago. Justice Jackson, whose absence from the bench prevented a majority opinion in some of the points presented, reached the city yesterday morning from his home, Bellemead, Tenn. and resumed his seat on the bench at noor today. He is somewhat wasted in figure and shows signs of his illness. He was of course the center of attention today, being now practically the judge of the entire question, as upon his vote upon the mair point of the constitutionality of the law presumably rests the entire case, as it is not thought likely that any of the other votes as cast a few weeks ago will be

A Distinguished Audience.

There was an unusually large number of distinguished men present, drawn to the ccurt by a natural interest in the pro ceedings. Secretary Morton came into ccurt for a few minutes during the middle of the day. Ex-Postmaster General Dickinson listened to the opening remarks of Mr. Guthrie, one of the attorneys for the petitioners for a rehearing. Speaker Crisp occuped a seat within the bar. Among others who were there were Senator Mitchell, Representatives Dalzell and McMillin, and ex-Representatives Cutcheon and Kasson. The court was occupied for an hour after it convened by the announcement of opinions from the bench, the admission of new members to the bar and the hearing of routine motions. The interest, of course, centered in the case set specially for the day, but the dull and uninteresting proceedings in the first hour caused very few to surrender their coveted places and retire. One of the spectators had sent a District messenger ahead of him in the early morning to secure a seat for him, and was considerable. of the day. Ex-Postmaster General Dickinmorning to secure a seat for him, and was considerably chagrined when, on his ar-rival at 11:30, he found the boy proudly holding a desirable seat with several others vacant on each side of him.

To Go Into All the Questions. When the desks had all been cleared of small matters Chief Justice called the cases by number and stated that in response to a suggestion by the Attorney General, which the court interpreted as virtually a motion for a rehearing, the court had decided to permit counsel to go into all the questions involved in the case. into all the questions involved in the case. The rehearing, he said, had been dependent upon the presence of Justice Jackson, a contingency now happily realized. It had been found necessary to limit the course to two on each side, but that the court would leave the question of the length of time to be consumed and the proper division of it to the attorneys themselves. At this Attorney General Olney, who sat at the center of the bar with his assistant, Mr. Whitney, bowed politely to Mr. Joseph Choate, the chief counsel for the petitioners, who sat with Mr. W. D. Guthrie at the left of the court. Mr. Choate bowed in return and each waiting for the other to arise, there was a pause of some minutes, which was finally broken by Mr. Choate's stating that he thought five hours made no response, and the Chief Justice said that he thought that the same period

as well.

Before Mr. Guthrie began his argument,
Judge J. M. Wilson was permitted, on behaif of John G. Moore, to file a brief in the

present case. Mr. Guthrie's Argument. Mr. Guthrie began by saying that coun sel for the appellants in cases had been subjected to considerable criticism for their motions for a rehearing, but they had felt justified in the realization of the fact there were many points still undecided in the definite and final adjudication of which the entire country was vitally interested, and he assured all concerned that the counse for the appellants in the present court would approach in a spirit of the highest patriotism, and with no desire for mere self aggrandizement. He said that the question involved was a constitutional one, and add-ed: "The Constitution is the political creed and conscience of the nation which must and conscience of the nation which must control and rule our destiny; and in so far as this court shall preserve it intact, ac-cording to its letter and its spirit, or per-mit the darkness of error to affront its light, so will our future be progress or de-cline, happiness or misery, glory or shame. "If the court must choose between a statute and the Constitution, between a

statute and the Constitution, between a decision and the spirit of the Constitution, between an oblier dictum and the plain words of the Constitution, it is not then of the essence of judicial duty to decide conformably to the Constitution disregarding statute, decision or dictum. There can be no law inconstatent with the fundamental laws: and a century of error cannot overno law inconsistent with the fundamental laws; and a century of error cannot overrule the Constitution. The question is not to be determined by considerations of the present expediency or practicability or hardship, but according to the lights, the purpose, the intention of the framer, and as they intended the Constitution to operate, so must we enforce it today.

"The people are not to be deprived of inherited rights, such as are imbedded in our

perited rights, such as are imbedded in our herited rights, such as are imbedded in our Constitution.by mere precedent or the technical application of the rule of stare decisis. The Constitution cannot be enslaved by any such doctrine nor manacled with such parchment chains. The most technical work in the common law, Fearne on Contingent Remainders, is cited to uphold the claim that an error in the interpretation of the Constitution must be perpetuthe claim that an error in the interpreta-tion of the Constitution must be perpetu-ated. We answer, in the language of our great historian: Woe hangs over the land where the absolute principles of private right are applied to questions of public law, and the effort is made to bar the prog-ress of the undying race by the despotic rules which ascertain the property of evan-escent mortals!"

scent mortals!" He said the Constitution was not the creation of the Finadelphia convention, but was the result of the experience of ages. The framers of it were practical men, who had a profound distrust in theories. He asserted that the provision in regard to direct taxes was not inserted blindly, as the opposition seemed to contend, but was the result of a compromise, as all understood

understood. The Powers of Congress. In granting to the Federal Congress the

ower to lay taxes for the common defense and general welfare of the United States, the framers of the Constitution deemed it essential to impose limitations and restrictions upon the method of the exercise of that power. They had suffered for generations from the operation of unequal tax laws, and they had fought the great struggle of the revolution to maintain the principle that taxation should be exercised to the representation. Their work tain the principle that taxation should be according to representation. Their work was to forge guarantees for themselves and for posterity which would prevent Congress from levying direct taxes, except by apportionment, according to the population of the respective states, and from laying duties, imposts and excises which were not equal or uniform. Did they fail to accomplish what they intended, what they professed to do? In every con-

He quoted many authorities to show that He quoted many authorities to show that the people did not understand that the word "direct," as used in the Constitution, applied only to capital taxes and taxes levied direct on land. He then examined the tax laws of the colonies and states in order to show the familiarities of the delegates with tax not only upon land and income derived therefrom, but upon personal property, with the view of proving that the delegates must have intended to include a tax on personal estate, for otherwise it tax on personal estate, for otherwise it must be clear that if they contemplated merely a land tax they would have used those words.

He argued that the fact that Congress He argued that the fact that Congress was given power also to lay indirect taxes cannot change the scope and meaning of the term "direct taxes." If the Constitution thus stood with the power of Congress limited to "direct taxes," would any court have ever held that "direct taxes" did not include a tax upon personal property, such as the people of every state were then paying for the support of their local governments?

The Cause of the Error. The point of his contention was that the authorities established the principle that taxation upon the income of one class of property is objectionable as upon another. He charged the Hylton case with being the sole cause of all the error in this matter at length. It was, he said a political case in which the administration of Washington was pitted against the anti-federalists and the case in which the local prejudice cut an important figure. "We are told," he said, "that although the conclusion might be different if the question were a new one, the court is precluded from considering the merits of a constitutional question or guaranty by the expressions in this case. Such an argument concedes the possibility of original error. It is never too late to adopt and declare the truth as to the Constitution. Under such circumstances as are here presented, the doctrine of stare decisis should not be applied." authorities established the principle that

stitution. Under such circumstances as are here presented, the doctrine of stare decisis should not be applied."

But if the Hylton case decided that direct taxes included only capitation taxes and taxes directly on land, why did the court in Veaste Bank agt. Fenno, in 8th Wallace, add: "And perhaps taxes on personal property by general valuation has assessment of the various description possessed within the several states."

What could be more of a general assessment than a tax assessed upon income of personal property from all sources whatever?

whatever?

He controverted the opinion that the decision in the Hylton case had been accepted as deciding that only the capitation tax and the land tax were direct taxes, and asked if this was so why was it that Congress, in 1796, less than thirty days after the decision was rendered, had instructed the Secretary of the Treasury, by resolution, to report a plan for laying direct taxes by apportionment?

He also cited other authority to show that the decision was not accepted as in any manner conclusive, extending his quotations to the time when the income tax of 1801 was under consideration in Congress.

"It has been said," continued Mr. Guthrie, "that we submit no new argument, But is that a weakness? We have not strained after new effects. We concede that all we say, finds its inspiration in what was said at the time the Constituwhat was said at the time the Constitu-tion was adopted, at the time the Hylton case was decided, and in every case argued since that day. It seemed to us wise not to attempt to symmit any novel or new ideas, but to be able to stand upon what had been said repeatedly in this case and in Congress in regard to the true inter-pretation of this term of the Constitu-

pretation of this term of the Constitution."

Much was said upon the prior argument
in regard to the awful responsibility which
the court would assume in declaring an act
of Congress unconstitutional, and the
clamor that it might excite. It may not,
therefore, be amust to observe that while
we have been contesting some of the provisions of the Wilson tarin' bill on the
ground of their unconstitutionality, the
Department of Justice itself has been
earnestly carsying on a contest on precisely the same ground against certain sections of the McKinley tarin' bill. This has
been done with so much ability and success
that the executive branch of the government has procured a judgment annulling
as unconstitutional and void the sugar
bounty sections of that act. Therefore, it
should not, it seems to us, excite comment

bounty sections of that act. Therefore, it should not, it seems to us, excite comment, and much less criticism, that private citizens, in protection of their own rights, have followed this example.

Mr. Guthric contended that the power to tax incomes was not essential to the support of the government, and instanced the small percentage of the expenses of conducting the civil war, which was borne by the revenue derived from the income tax.

Mr. Guthrie did not regard as of great importance the plea that a direct tax by apportionment would be unjust. New York apportionment would be unjust. New York would, he said, be satisfied to pay its share, as he believed other states would be. "I know the sentiment of my state. She will gladly pay double thirteen—we will grasp at the opportunity of paying 26 per cent of all the taxes if the people of the United States are prepared to give her 26 per cent of the representation in Congress at the present time and in the coming crisis." apportionment would be unjust. New York

The Intention of Congress. Mr. Guthrle then presented at some length the contention that as it was clearly the intention of Congress to have the law act as a whole upon all income, the provisions includes rents and other income from land includes rents and other income from land and from personal property, and its general language covers also income from municipal bonds. The government has insisted that it was not only the intention but within the power of Congress to tax the income from municipal bonds. Thus we have in this act, by reason of the intention of the framers and the scope of the larguage used, provisions deliberately violating the plain words of the Constitution, and attempting to tax sources of income and attempting to tax sources of income which Congress had no power to touch, di-

rectly or indirectly.

The object of the act is single and entire, that is to say, the taxation of in-come from all sources. In order to pre-serve the provisions now remaining, the court must strike out words actually used, such as rents, income and product of land, and also add a limitation substantially in these words: "Nothing herein contained shall apply to rents or product of land or shall apply to rents or product of land or income derived from real or personal estate or nunicipal bonds." This court before it can attempt thus to legislate must be clearly satisfied that Congress would have passed the act in this mutilated form. He declared the art should be sent back to Congress because arbitrary and unjust and in violation of the express provisions of the Constitution.

Constitution.

He then took up the question of exemptions and limitations, repeating much of the argument advanced at the first hear-

The Question of Refunding. Replying to the suggestion of the Attorney General that, in the light of the redecision the government should re-

fund the money collected under former income tax laws, Mr. Guthrie said:
"The people of the United States gladly paid the income tax to defray the expenses of the war, and would make a similar sacrifice today, if it were necessary. Congress has not/returned the cotton tax, although it was clearly sectional partial and though it was clearly sectional, partial and unfair. Has it eyer been advanced as a principle of justice or morality that, if you decide that a certain interpretation of the customs laws has been erroneous, every man who had paid without protest is entitled to have his duties refunded?

titled to have his duties refunded?
"There is no propriety on the part of the executive branch of the government in telling this court that it should be affected one way or the other that its decision may compel the refunding of vast sums of money unlawfully collected."

In conclusion, he quoted Chief Justice Chase in support of his assertion that the exigencies of war should not create prace.

exigencies of war should not create precedents. "Not a whisper," said Mr. Guthrle, "was heard in a federal court attacking the "was heard in a federal court attacking the constitutionality of the tax until two or three years after Appomattox. It would be opposed to every principle of constitutional theories and every principle of civil right to hold these sacrifices, willingly submitted to in a time of war, as precedents or unlawful exactions in a time of peace."

When the Arguments Will Close. According to the arrangement entered into when the arguments were begun this morning, it is thought probable that the norming, it is thought probable that the court will be occupied in this manner for fully three days. It was not expected that the court would hear any other arguments than those of Mr. Guthrie today, and would devote temorrow to listening to Mr. Whitney for the government and Mr. Choate for the petitioners. If this should be done the Attorney General will probably close the Attorney General will probably close the case Wednesday, after which the court will take the matter under consideration.

MR. WILSON ARGUES

The Potomac Flats Cases Were Continued Today.

KIDWELL CLAIMS THE ISSUE

Lawyers Tell of the First Intention Regarding Streets.

The Court in General Term, Chief Justice

Bingham and Justices Hagner and Mc-Comas, this morning entered upon the third week of the consideration of the Potomac flats case, in which the United States seeks to quiet the claims of some forty odd parties, who claim the flats and the adjacent river front from about Easby's Point to the arsenal. So far in the case only the claims of the Marshall heirs and those claiming under the so-called Kidwell patent of December 6, 1860, have been presented. The former claim through purchase from the grantees under colonial grants the entire river bed from shore to shore, and the latter claim 47.71 acres of the Potomac flats, from about 17th street to a point just beyond Easby's Point. The claims of the Marshall heirs have been and this morning Mr. Nathaniel Wilson resumed his argument—the closing one—in the matter of the Kidwell claims. The case will, it is thought, consume at least two weeks more of the court's attention in its presentation. fully argued and submitted to the court,

Argument Resumed.

When he resumed his argument this morning Mr. Wilson invited the court's attention to the different maps of the city and of the flats, beginning with the L'Enfant map, contending that the government was in error in arguing that there never was a well-defined channel separating the flats from the city and also wrong in stating that the exact location of the land covered by the Kidwell patent could not be made. The maps, said Mr. Wilson, clearly showed that as early as 1791, and as late as 1884, the channel in question was in actual existence. The depth of water in this channel, asserted Mr. Wilson, ran from three to eight feet, and he read the testimony of several witnesses tending to show such a state of facts up to the time, at least, of the date of the Kidwell patent. was in error in arguing that there never

The Question Stated. In 1869, said Mr. Wilson, it seemed to be clearly established that the land in question was there, and that it was separated from the mainland by the channel referred to. It was also clear, he stated, that the United States at that time had an indisputable title to the land. Hence, the fundamental question is, Was it such land which the government, under the authority of the joint resolution of 1839, could grant under its patent? That was the main question to be considered by the court, and if the question was answered in the affirmative the title of those claiming under the Kidwell patent could not, insisted Mr. Wilson, be disputed, and that grant should, therefore, be affirmed. It was wholly competent, thought Mr. Wilson, for Congress to authorize the granting of the land, and entirely consistent with the doctrine laid down by the United States Supreme Court in the lake front case, as the granting of the land could in no way interfere with the rights of the government in the matter of either the improvements or navigation of the rivor. It did not matter, he thought, that part of the land might at times have been submerged; the title of the government to the giver bed, however obtained, was indisputable, and was subject to grants from the United States.

Not the First. that the United States at that time had an

Not the First.

The Kidwell patent, stated Mr. Wilson, was not the first of its kind, for in 1856, he explained, President Pierce granted the islands just above the Aqueduct bridge, known as the "Three Sisters," to one John Moore. That land, said Mr. Wilson, was granted under the authority of the law of Issue, showing that the government had previously to the making of the Kidwell patent exercised the same right it exercised in the grant to Kidwell, and never until in the present suit, he declared, had this authority of the government been questioned. questioned.

tended that the land covered by the Kid-well patent was and is within the city limits, but he declared that not a scintilla of evibut he declared that not a scintilla of evidence sustained that contention. It mattered not what had been the intentions of the founders of the city in extending the streets out upon the land in question, for it was nevertheless true that the streets were never, in fact, so extended.
"Is there," interrupted Mr. Taggart, "anything to show that the streets did not so extend?"

so extend? " answered Mr. Wilson, "and there is nothing to show that they ever did. Question of Fraud.

Referring to the contention of the government that fraud was practiced in obtaining the Kidwell patent, Mr. Wilson said he wished to impress upon the court the fact that after his first application for the patent, Dr. Kidwell, in applying the second time, merely prayed for a re-exami-nation of the land. All the officers of the government, he said, were sworn to prop-elry perform their various duties, and the patent itself is evidence that the prelimi naries have been fully complied with and all conditions duly performed. The United States Supreme Court, said Mr. Wilson, h: decided that the action of the land onnce is conclusive evidence everywhere, except when reconsidered in the office on appeal, and that as to the facts upon which thair decision is based in the absence of their decision is based, in the absence of fraud or mistake, that decision is conclufraud or mistake, that decision is conclusive, even in courts of justice, when the title afterward comes into question. It was seriously contended by Mr. Taggart, said Mr. Wilson, that the Kidwell patent is void because it was signed by the President. It was a most extraordinary contention, he remarked, but there is nothing in it because the law required it to be seen the law required it to be seen the law required it to be seen the law required in the seen the law required it to be seen the law required in the seen the law required in the seen that the law required in the seen that the law required it to be seen that the law required in the seen that the law required in the seen that the law required in the seen that th

in it, because the law required it to be so MR. GRESHAM'S ILLNESS.

He is Reported as Being Somewhat

Secretary Gresham is still a very sick man, although it is said that he passed a good night and is somewhat improved today. His various complications, including pleurisy, appear to be yielding to treatment, and his friends are encouraged a the favorable symptoms. Dr. W. W. Johnson is now in charge of the case and is hopeful of a steady improvement. Secretary is very weak from lack of nour-ishment and is still confined to his bed. He to some other nearby resort.

Gen. Pleasonton's Condition General Alfred E. Pleasonton, who has

been quite ill for several days past, is reported today to be a good deal better. An abscess which has troubled him for Pleasonton has not left his room for the past five years, one reason for this se-clusion being the difficulty he experiences in wearing street clothes without suffering. in wearing street clothes without suffering. He is his own doctor, as he has a repugnance to physicians. Representative Hitt No Better

Representative Hitt was no better this norning. He had a bad night, and did not rally. Sawing Ice.

Consul Morris at Ghent has sent to the

State Department a description of an apparatus for sawing ice and opening navigation closed by severe winter weather. It consists of a machine with two circular saws worked by a portable engine from a boat. The saws are about five yards apart, and the ice sawed is broken by the boat. The machine has been tried during the recent severe weather at Antwerp

ON TRIAL FOR MURDER.

Getting a Jury in the Johnson Stab

This morning Judge Cole, sitting in Criminal Court No. 2, began the trial of James Andrew Beverly and Nelson Thurston, or the charge of murder. The crime with which these men stand indicted was com mitted on February 5 last. Both are col-ored men, and the man who was killed, Charles E. Johnson, was also colored.

The homicide was the result of a row which occurred on Pomeroy street, near Freedman's Hospital, in the course of which, it is alleged, Beverly stabbed Johnson in the heart with a knife, the wounded nan dying on the following day. The case was rather remarkable in that the man who was stabbed lived as long as he did after receiving the fatal wound. Thurston LONG ARGUMENTS was held on the charge of adding and abet-ting Beverly in the act, and Judge Cole explained to the jury that if he was guilty of the offense charged he was guilty in the same degree as the man who wielded he knife.

the knife.

The government was represented by Mr. Tracy L. Jeffords and Mr. Charles A. Armes, and the defendants by Mr. Thos. C. Taylor for Beverly, and Mr. C. L. Trevitt for Thurston.

The morning was occupied in securing a gury, a number of those who were called being excused on the ground of conscientious scrupies against capital punishment or because they were challenged by scientious scrupies against capital purishment or because they were challenged by the defense. As all the trials for murder which have come before this panel have resulted in convictions the lawyers for the government found no reason to challenge any of the jurors who were called this morning. At 11 o'clock the court took a recess until 12:45, and the work of filling the jury box was then resumed.

The Jury.

The Jury. It was 2:15 when the jury was finally completed as follows: Alfred West, John J. Newmeyer, S. F. Gill, John Bronaugh, D. J. Buckley, Jules A. Demonet, John Byrne, Wm. B. Gurley, E. L. Dodd, C. Carroll Martin, J. Henry Wurdeman and

Mr. Jeffords opened for the government Mr. Jeffords opened for the government, outlining in brief what the prosecution expected to prove. Thurston, who is a cobbler, had a shop on Pomeroy street, just off of 7th street. On the night of the killing there was some drinking and a fuss in the shop. Beverly and Johnson ran out and across the street and the contention of the government would be that Beverly pursued Johnson and, urged on by Thurston, struck at Johnson with a knife and pierced his heart.

pierced his heart.

Mr. Trevitt made an opening address on behalf of Thurston and the case was in progress when The Star's report closed.

LIVELY TALK.

Lawyers Disagree Over a Police Court

Judge Miller's court room came near be ng the scene of a free fight this afternoon, and it required the combined efforts of the and it required the combined efforts of the judge and several balliffs to restore order and prevent possible bloodshed. The scene was the result of a tilt between Lawyers George W. Albright and George French, who were interested in a case that was being heard. In the case Yorick W. Smith appeared as defendant, while J. J. Schenck was the prosecuting witness.

Smith lives on Trinidad avenue, and Schenck has an office on G street, opposite the patent office.

Schenck has an office on G street, opposite the patent office.

It was charged that Smith had made false representations to Schenck concerning a patent sewer bottom, and had obtained \$150 from him.

Lawyer French represented the defendant, and had the privilege of cross-examining the witnesses, while Albright, who was present as counsel for Shenck, was permitted to take no active part in the contest.

During the discussion of the case Lawyer French made a statement to the effect
that an effort had been made to settle the
matter out of court, and to this statement
Mr. Albright took exceptions.
He claimed that Lawyer French's statement was a reflection on him and his methods, and after denouncing his statement as
being groundless he proceeded to tell
French that he could or would thrash him.
"You can't thrash one side of me." said

French that he could or would thrash him.

"You can't thrash one side of me," said French, who added something about what would happen should they meet outside.
"I can whip you with one hand," he added. "Gentlemen, please keep quiet," shouted the bailiff, as he rapped for order.

Judge Miller was also deing some work assigned to bailiffs and finally order was restored long enough for Judge Miller to dispose of the case, which he did by holding Smith in \$100 security for the action of the grand jury.

There was another tilt between the lawyers, but it ended in talk, as no blows passed.

The Commission Held a Meeting This

The Rock Creek Park commission met at the city hall this afternoon and adjourned the city hall this afternoon and adjourned until the last Monday in October next. But three members, Gen. Thos. L. Casey, Gen. C. M. and St. Paul C. M. and St. Paul Pfd. Chic. R.I. and Pacific. ment was taken to allow a decision by the ment was taken to anow a decision of the Court of Appeals as to whether or not the commission has the right to make an assessment of benefits on the property adiacent to the park. In the case of the Van sessment of benefits on the property adjacent to the park. In the case of the Van Riswick heirs, several weeks ago, Judge Cox held that the commission has no authority to make the assessment proposed in the park law of 1800, and granted an

injunction, restraining the commissioners. The commissioners thereupon noted an appeal to the Court of Appeals. The Roard of Trade to Meet

It was decided today to call a special eeting of the board of trade to consider the state of affairs at Alexander Island and at other places adjoining this city in Alexandria county, Va., which are under the control of gamblers and the disreputable element. It is expected that the meeting will be held one day this week.

An Assignment.

John H. Flanagan of 513 7th street, eweler, this afternoon made an assignment to Martin A. Leese for the benefit of his creditors. The assets are placed at \$6,450.71 and the liabilities at \$4,500.

Grain and Cotton Markets. Cotton and grain markets, reported by W. B Libbs, stock, grain and cotton broker, 1421 F st. GRAIN.

and cotton broker, 1421 F st.
GRAIN.
Open. High. Low. Close.
6236, 6236, 61 61
6338, 6336, 624, 61 61
6338, 6336, 624, 624
49 4938, 493 49 49
494, 4958, 493, 493, 494, 44
2836, 2837, 2838, 2838, 2838, 11.92
11.80 11.80 11.80 11.80 11.80
11.80 11.80 11.80 11.80
11.95 16.52 6.52 6.52
6.66 6.65 6.60 6.00 6.00
COTTON.
Open. High. Low Close.
6.51 6.55 6.59 6.55
6.60 6.67 6.59 6.66
6.62 6.69 6.62 6.69 Wheat—May
July
Corn—May
July
Oats—May
July
Pork—May
July
Lard—May
July
Ribs—May
July Month.

Baltimore Markets.

Baltimore Markets.

Baltimore Markets.

Baltimore, May 6.—Flour firm—western super, 2.35a2.50; do. extra, 2.55a3.00; do. family, 3.15a, 3.40; winter wheat patent, 3.60a3.85; spring do., 3.80a4.00; spring wheat straight, 3.60a3.80—receipts, 8.858 barrels; shipments, 1.261 barrels; sales, 1.775 barrels. Wheat quiet and easy—spot and month, 08a684; June, 68 asked; July, 663a, 664; August, 667, asked; steamer No. 2 red, 65a, 654,—receipts, 32, 443 bushels; stock, 305,061 bushels; sales, 90,060 bushels; southern wheat by sample, 70a71; do. on grade, 67a70. Corn easy—spot, 54a544; month, 54a544; July, 544; asked; August, 55 bid; steamer mixed, 53a534,—receipts, 47,306 bushels; stock, 118,000 bushels; sales, 25,000 bushels; southern white corn, 554;356; do. yellow, 554;357. Oats firm—No. 2 white western, 37a374; No. 2 mixed, 334;334—receipts, 6,673 bushels; stock, 150,029 bushels. Rye quiet—No. 2, 66—stock, 6,321 bushels. Hay steady and firm—good to choice timothy, \$13.00a\$14.00. Grain freights dull, rates fairly steady, unchanged. Sugar strong—granulated, 4.45 per 100 lbs. Butter weak—fancy creamery, 19a20; do. imitation, 15a16; do. ladie, 14; good ladie, 11a12; store packed, 8a10. Eggs steady—fresh, 12½. Cheese firm—fancy New York, 60 size, 114;a114; do. 35 size, 12a124; do. 20 to 25 size, 124;a124.

Washington Grain Market.

Reported by the Grain Exchange.

Reported by the Grain Exchange.

Spring patent flour, per barrel, 3,9024.10; spring straight flour, per barrel, 3,75a3.99; whiter patent flour, per barrel, 3,60a3.75; winter straight flour, per barrel, 3,60a3.75; winter straight flour, per barrel, 3,60a3.75; winter extra flour, per barrel, 3,0a3.59; winter extra flour, per barrel, 2,75a3.90; clipped white oats, per bashel, 39a, 49; No. 2 white oats, per bushel, 37a3.75; No. 2 mixed oats, per bushel, 34a3.45; No. 2 yellow corn, per bushel, 55a56; No. 1 timothy hay, per ton, 13,25a14.90; No. 2 timothy hay, per ton, 13,25a14.90; No. 1 mixed hay, per ton, 12,60a13.90; No. 1 clover hay, per ton, 9,00a10.00; No. 1 cut hay, per ton, 13,50a 14,50; bulk bran, per ton, 17,00a18.90; bulk middlings, per ton, 17,00a18.90; per straw, per ton, 13,00a13.50; wheat straw, per ton, 6,90. The above quotations for car lots delivered on track, Washington.

FINANCE AND TRADE

Large Foreign Buying of American Stocks and Bonds.

INTEREST WAS IN THE INDUSTRIALS

Discussion of Earnings and Crop

Prospects.

GENERAL MARKET REPORTS

NEW YORK, May 6.-A well-distributed

volume of business and continued confi-

dence in the prolongation of the upward

movement resulted in substantial additions

pecial Dispatch to The Evening Star.

being made to values in today's stock mar-Compared with Saturday's closing, initial figures reflected advances varying from 1-4 to 1-2 per cent, and in a majority of instances subsequent trading doubled these fractions. London's early cables indicated a higher range of prices for all of the more active international issues, and brought numerous commissions to the local representatives of foreign banking houses. The developments of the day were generally favorable, several encouraging increases in earnings for the month of April being announced, together with assurances that future reports will, in all probability, show continued improvement in these items. The weaker tone of the foreign exchange market was a decided addition to the fund of prevailing incentive, and reflects the result of recent trading for foreign account. Rates for actual business were fully 1-16 below those reported on Saturday, and the supply of bills drawn against stocks and bonds purchased for London houses was largely increased.

The inquiry from remitters was small, and aided the depression in rates. All things considered, the market has fewer exposed points of vulnerability than any of its recent predecessors, and traders' reactions are, at the moment, practically the only menace to values. The developments of the day were gen-

only menace to values.

The room is becoming skeptical with regard to certain of the specialties which have had large advances, but the manipulation has been more than equal to every

emergency.
Interest centered largely in the Granger

Interest centered largely in the Granger group as the result of a general revolution in sentiment respecting the western crop situation. Burlington, St. Paul and Rock Island each gained a trifle over 1 per cent and Northwest, although under suspicion of contemplating a reduction in its dividend rate, added 3-4 per cent to first prices.

New England was active at an advance of 13-8 per cent with no motive at all consistent with the extent of the advance. The securities of the Southern railroad were strong, the preferred stock selling up over 40 on what was said to be good buying for both local and European account.

The industrial list was active, particularly Sugar, on further advances in the prices

The industrial list was active, particularly Sugar, on further advances in the prices
of the refined product. The pool in this
property, being favored with excellent
trade conditions, are confidently predicting
further successes on the long side.
Chicago Gas was weak under short sales
based on the belief that the frontage bill
will be vetoed during the week. Purchases
of distillers for both accounts advanced the

will be vetoed during the week. Purchases of distillers for both accounts advanced the price of that property 1 per cent.

The trading of the last hour was active and somewhat irregular. A selling movement in Reading, supposed to have originated in Philadelphia, broke the price of that stock 1 per cent and forced sympathetic reductions in the higher priced coalers. Further reductions in foreign exchange rates were announced during this change rates were announced during this period. Sugar sold up to the highest point yet recorded and was steadily absorbed

FINANCIAL AND COMMERCIAL.

The following are the opening, the highest and the lowest and the closing prices of the New York stock market today, as re-ported by Corson & Macartney, members New York stock exchange. Correspondents Messrs. Moore & Schley, No. 80 Broadway:

Attelison
Canada Southern
Canada Pacific
Chesapeake and Ohio
C. C. C. and St. L.
Chicago, B. and Q.
General Electric
Illinois Central
Lake Shore ake Shore Louisville and Nashville

67% J. S. Cordage Co.
J. S. Cordage Co. Pfd.
S. Cordage Co. Pfd.
New Jersey Central
N. Y. and N. E. Cfs.
N. Y., C. and St. Louis.
Northern Pacific. orthern Pacific Pfd...

66% 159% 129 44 18% 6% 95% 99% 15 45% 21% 24% 17% 24% 175 21 % 5% 17% 24% 17% Northern Pacific Pfd.
North American.
Ont. and Western.
Pacific Mail.
Phila. and Reading.
Pullman Pal. Car Co.
Southern Railway.
Phila. Traction 14% 82% 10% 28% 13% 17% 17% 14%

| Phila Traction | S25 | S15 |

Sales—regular call—12 o'clock m.—Belt Railroad 5s, \$1,000 at 87; \$1,000 at 86; \$1,000 at 85; \$1,000 at 85%; \$1,000 at 85%; U. 8. Electric Light, 5 at 135. Riggs Fire Insurance, 15 at 7%; 100 at 7%. Government Bonds.—U. 8. 48, registered, 1114; bid. U. 8. 4s, coupon, 112½ bid. U. 8. 5s, 114%, bid. 135. Riggs Fire Insurance, 15 at 738; 100 at 738.
Government Bonds.—U. S. 48, registered, 1114, bid. U. S. 48, coppon, 1125, bid. U. S. 58, 1144, bid.
District of Columbia Bonds.—20-year fund 58, 106 bid. 30-year fund 68, gold, 1144; bid. Water stock 78, 1901, currency, 117 bid. Water stock 78, 1903, currency, 118 bid. 3,658, funding, currency, 1114; bid. Miscellaneous Bonds.—Washington and Georgetown Railroad conv. 68, 24, 120 bid. 359, registered, 2-108, 100 bid. Miscellaneous Bonds.—Washington and Georgetown Railroad conv. 68, 24, 120 bid. 1369; asked. Eckington Railroad conv. 68, 26, 1924 bid. 1369; asked. Eckington Railroad conv. 68, 1924 bid. 1034; asked. Belt Railroad conv. 68, 1958 bid. 1034; asked. Gompany 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series B, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 8, 115 bid. His asked. Washington Gas Company 68, series 1, 115 bid. His asked. Washington Gas Company 68, series 1, 115 bid. His asked. Washington Gas Company 68, series 1, 115 bid. His asked. Washington Security and Trust 58, A, and 0,, 100 bid. Washington Market Company 181 68, 110 bid. Washington Market Company 181 68, 110 bid. Washington Market Company ett. 68, 108 bid. Masonic 14aii Association 58, 101 bid. Washington Light Infantry 181 68, 101 bid. Washington Light Paramers and Mechanics. 120 bid. Second. 1374, bid. 147 asked. Capttal, 118 bid. National Bonk Stocks.—Bank of Washington, 150 bid. Washington Tide Company 68, 160 bid. Columbia, 130 bid. 142 asked. Capttal, 118 bid. 151 asked. Frankin, 45 bid. 55

Graphophone, 23, Carriage, 30 bid. scellaneous Stocks Gun Carriage, 30 bid.
Miscellameous Stocks.—Washireton Market, 14
bid. Great Falls Ice, 130 bid. 145 asked. Bull
Run Panorama, 30 asked. Norfolk and Washington
Steambort, 94 bid. Washington Brick Company,
100 bid. Lincolr Hall, 75 bid. Inter-Oscan Buildling, 90 asked. Mergenthaler Lunotype, 250 bid.